

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHRISTOPHER J. VELTHUYSEN,

Plaintiff,

v.

Case No. 2:10-cv-262
HON. R. ALLAN EDGAR

UNKNOWN BOLTON,

Defendant.

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MEMORANDUM AND ORDER

Plaintiff Christopher J. Velthuysen, a Michigan state prisoner in the custody of the Michigan Department of Corrections, brings this federal civil rights action under 42 U.S.C. § 1983. Defendant Jennifer Bolton moves for summary judgment pursuant to Fed. R. Civ. P. 56. [Court Doc. No. 8].

On August 23, 2011, Magistrate Judge Timothy P. Greeley submitted his report and recommendation. [Court Doc. No. 12]. The Magistrate Judge recommends that the motions for summary judgment be granted and the plaintiff's complaint be dismissed with prejudice. The parties have not timely filed any objections to the report and recommendation.

After reviewing the record, the Court **ACCEPTS and ADOPTS** the report and recommendation pursuant to 28 U.S.C. § 636(b)(1), Fed. R. Civ. P. 72(b), and W.D. Mich. LCivR 72.3(b). Defendant Bolton's motion for summary judgment [Court Doc. No. 8] is **GRANTED**. The plaintiff's entire complaint shall be **DISMISSED WITH PREJUDICE**.

For the reasons expressed in the report and recommendation, the Court finds that any appeal

by plaintiff Velthuysen from the decision and judgment in this case would be frivolous and not taken in good faith. *McGore v. Wigglesworth*, 114 F. 3d 601, 611 (6th Cir. 1997). Pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(4)(B), the Court **CERTIFIES** that any appeal by plaintiff Velthuysen from the judgment of this District Court would not be taken in good faith.

In the event that plaintiff Velthuysen takes an appeal to the Sixth Circuit Court of Appeals, this Court shall assess and require him to pay the \$455 appellate filing fee pursuant to § 1915(b)(1), *see McGore*, 114 F.3d at 610-11, unless he is barred from proceeding *in forma pauperis* by the “three strikes” rule in 28 U.S.C. 1915(g). If the plaintiff is barred by the “three strikes” rule in 28 U.S.C. 1915(g), then he shall be required to pay the \$455 appellate filing fee in one lump sum.

A separate judgment will be entered.

SO ORDERED

Dated: September 13, 2011.

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE